

BILL ANALYSIS

Senate Research Center

S.B. 744
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Intergovernmental Relations
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Enrolled

BACKGROUND

In 1992, the legislature authorized higher education institutions to enter into performance contracts for energy conservation measures to reduce energy consumption and operating costs at institutional facilities. These contracts provide a cost-effective way to fund facilities improvements without increasing the need for state appropriations or relying on limited state-funded loan programs. Energy performance contracts do not require the institutions to cover initial costs; the contractor pays for all project engineering, equipment and construction, and is paid back from annual energy cost savings within a 10-year period. Also, the contractor guarantees that a certain level of energy savings will be achieved; if not, the contractor must return the difference.

PURPOSE

As enrolled, S.B. 744 authorizes the local governments to enter into energy conservation contracts; sets forth contract bidding procedures.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is granted to a retail public utility that provides water service under SECTION 1 (Sec. 302.007(c), Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 9C, Local Government Code, by adding Chapter 302, as follows:

CHAPTER 302. ENERGY CONSERVATION MEASURES FOR LOCAL GOVERNMENTS

Sec. 302.001. DEFINITION. Defines "local government."

Sec. 302.002. CONTRACT FOR ENERGY CONSERVATION MEASURES. (a) Authorizes the governing body of a local government to enter into a contract for energy conservation measures to reduce energy consumption or operating costs of governmental facilities in accordance with this chapter.

(b) Provides that a contract authorized under this chapter includes a contract for the installation of certain electrical systems and fixtures.

(c) Requires the person contracted by the governing body to be experienced in the design, implementation, and installation of energy conservation measures.

Sec. 302.003. BOND. Requires the providers of the energy conservation measures to file with the local government a performance bond in an amount that covers the value of the guaranteed savings on the contract and is conditioned on the faithful execution of the terms of the contract before entering into a contract for energy conservation measures.

Sec. 302.004. LENGTH OF CONTRACT. (a) Authorizes the governing body to enter into a contract for a period of more than one year for energy conservation measures with a person if the governing body finds that the potential amount the local government would spend will not exceed the amount estimated to be saved in energy and operating costs during the 10-year period beginning on the date the installation is complete.

(b) Prohibits the local government's contractual obligation in any year during the term of the contract, if the term of a contract for energy conservation measures exceeds one year, from exceeding the total estimated energy and operating cost savings divided by the number of years in the contract term. Requires the governing body to consider all costs of the energy conservation measures.

Sec. 302.005. LEASE-PURCHASE CONTRACT AUTHORIZED. Authorizes a contract for energy conservation measures to be a lease-purchase contract that meets federal tax requirements for tax-free municipal leasing or long-term financing with a term not to exceed 10 years.

Sec. 302.006. BIDDING PROCEDURES; AWARD OF CONTRACT. (a) Authorizes a contract under this chapter to be let under competitive proposal procedures. Requires notice of the request for proposals to be published in the manner provided for competitive bidding. Requires requests for proposals to solicit quotations and specify the relative importance of certain evaluation factors.

(b) Requires the contract to be awarded to the responsible offeror whose proposal, following negotiations, is determined to be the most advantageous to the local government considering the guaranteed savings and other evaluation factors set forth in the request for proposals.

(c) Authorizes the local government to conduct discussions with offerors who submit proposals and who the local government determines to be reasonably qualified for the award of the contract. Requires offerors to be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. Authorizes the local government, to obtain the best final offers, to allow proposal revisions after submissions and before the award of the contract.

(d) Requires proposals to be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations, if provided in a request for proposals under Subsection (a).

(e) Requires the board to give notice of intent to award a contract to the selected offeror on completion of all negotiations. Requires the notice of intent to be published in the same manner as the notice of request for proposals. Provides that all proposals are open for public inspection after the notice of intent to award is published, but trade secrets and proprietary information identified in the proposals are not open for public inspection.

Sec. 302.007. NONCONSUMPTIVE WATER SERVICE FEE. (a) Authorizes a retail public utility to provide nonconsumptive water service for the operation of a geothermal heat pump that circulates the water in a closed loop and returns it to the water main.

(b) Sets forth certain requirements of a retail public utility that provides water service under this section.

(c) Authorizes a retail public utility that provides water service to adopt additional rules and procedures for the installation, operation, and removal of a geothermal heat pump; and charge a reasonable fee for the installation, inspection, and operation of the heat pump.

(d) Provides that a retail public utility providing nonconsumptive water service for a geothermal heat pump is immune from any civil liability arising from the installation or use of the geothermal heat pump.

SECTION 2. Emergency clause.
Effective date: upon passage.